

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Establishment – Endowments Department – Review Petition filed by Sri Ch. Mallikarjuna Bhanu, Assistant Commissioner of Endowments (Retd.) filed Rule 22 of A.P. State and Subordinate Service Rules against the final seniority list of Assistant Commissioners of Multi Zone-I communicated by the Commissioner, Endowments Department proceedings dated 7-7-2008 – Review Petition allowed – Orders – Issued.

REVENUE (ENDOWMENTS.I) DEPARTMENT

G.O.Rt.No. 1451

Dated 1-10-2009.

Read the following:-

- 1 Proceedings Rc.No.E1/10663/2008-1, Dated 7-7-2008 of the Commissioner, Endowments Department
- 2 Revision Petition dated 7-8-2009 filed by Sri Ch. Mallikarjuna Bhanu, Assistant Commissioner (Retd.).
- 3 Hon'ble APAT order dated 25-2-2009 in OA No.2672/2009.
- 4 From the Commissioner, Endowments Department Lr.Rc.No.E1/12756/2009, Dt.4-6-2009.

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ORDER:-

In the proceedings first read above, the Commissioner, Endowments Department has communicated a final seniority list of Assistant Commissioners of Endowments in Multi Zone-I, after duly considering the objections filed by various individuals.

2. Aggrieved by the above, Sri Ch. Mallikarjuna Bhanu, Assistant Commissioner of Endowments (Retd.) has filed a Review Petition under Rule 22 of A.P. State and Subordinate Service Rules 1996. In the mean while the individual has also filed OA No. 2672/2009 in the matter. The APAT in its interim order dated 25-2-2009 has directed the respondents to dispose of the statutory appeal filed by the applicant on 7-8-2008 with in a period of six weeks.

3. The Appellant has contended among the others as follows:

- (i) That the Commissioner, Endowments Department while preparing the panel for the post of Assistant Commissioner of Endowments has not followed the Rules issued in G.O.Ms.No.245, Revenue (Endts.I) Department, dated 8-5-2002.
- (ii) Though he is senior most Superintendent working in Multi Zone-I, the Commissioner, Endowments Department has not placed his name before D.P.C. meeting held on 29-5-2002 and on other hand Smt. T.P. Tarabayamma was promoted from the Head Office Superintendent quota against the spirit of presidential orders and also contrary to the provisions of Special Rules.
- (iii) That as per the Provisional Seniority list of Assistant Commissioner of Endowments communicated by Commissioner, Endowments Department it is evident that against the 7th Cycle, the 1st vacancy was given to Sri N. Vijay Kumar, Head Office Superintendent 2nd vacancy was given to Sri B. Prabhakar Rao, Executive Officer Grade-I and 3rd vacancy which is meant for Superintendent of muffsil office was not given to the appellant, though he is senior most Superintendent and also qualified.

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- (iv) That his name has been included as per Rules and as per Cycle order he would have been completed the minimum service of 2 years before his retirement and acquired eligibility for promotion as Deputy Commissioner of Endowments.
- (v) The post of Assistant Commissioner of Endowments is a first level Gazetted Officer Post, which is a Multi Zonal cadre included in the III Schedule of the Presidential Order. IN this regard, he has made a specific objection No.2, for deleting the names of the persons, who were promoted from the cadre of Superintendents of Head Office. But, the same was not properly answered. Hence, the impugned order dated 7-7-2008 is bad and liable to be modified to the objections raised by the Appellant as stated supra.

4. The Appellant has therefore requested the Government to include his name at appropriate place in the seniority list of Assistant Commissioners and by giving his rightful promotion with effect from 30-6-2002 in the cadre of Assistant Commissioner by ordering to review the DPC conducted on 29-5-2002 and by duly deleting the name of persons, whose entry is against to the Para 5(1) of the Presidential Order, 1975 with all consequential benefits and pass such other order or orders as deemed fit.

5. The case was heard on 13-8-2009. The appellant along with his advocate appeared. The Joint Commissioner (Endowments) was also present on behalf of the Commissioner, Endowments Departments. While reiterating the contentions raised in the Review Petition, the appellant's advocate argued that while preparing the panels for the post of Assistant Commissioner of Endowments, the office of the Commissioner, Endowments Department has given a go bye to the statutory Rules issued under Art. 309 of the Constitution and also violated the provision of Presidential Orders 1975. He has further contended that the action of the Commissioner, Endowments is contrary to principles laid down by the Hon'ble Supreme Court of India in Jagannatha Rao's case i.e. C.A.No.9643 and 9644 of 1995 dated 7-1-2001 AIR 2002 SC 77. He has further contended that the Commissioner, Endowments instead of promoting the eligible and qualified persons as Assistant Commissioner of Endowments has promoted ineligible persons as Assistant Commissioner of Endowments and as such the appellant was denied of his rightful promotion as Assistant Commissioner of Endowments during the year 2002 itself. Though the appellant has filed his objections to the provisional Seniority list the Commissioner, Endowments Department has not considered the same.

6. The Joint Commissioner of Endowments (Estates) who represents the Commissioner, Endowments Department has also admitted the fact that the appellant is fully qualified and eligible for inclusion in the panel prepared for the post of Assistant Commissioner of Endowments during 2002 but of his claim was not considered. He has also admitted the fact that though the judgement of Supreme Court of India in CA No.9643 and 9644 of 1995, dated 7-1-2001 does not pertain to Endowments Department but yet the principles laid down by the Apex Court are also applicable to Endowments Department according to which inclusion of the names of Head Office Superintendents in the panels for the post of Assistant Commissioner of Endowments is contrary to the principles laid down by the Supreme Court of India. The category of the post of Assistant Commissioner of Endowments is a first Gazetted category in A.P. Charitable and Hindu Religious Institutions and Endowments Service. As per Rule 3 of the Rules issued in G.O.Ms.No.245, Revenue (Endts.I) Department, dated 8-5-2002 the post of Assistant Commissioner of Endowments shall be filled as follows:-

Assistant Commissioner:

- (i) By direct recruitment of a Person who has not less than 3 (three) years of practice as an advocate in the High Court of Andhra Pradesh; or
- (ii) By promotion from the category of Superintendent in Endowments Department; or
- (iii) By promotion of Executive Officer Grade-I; or
- (iv) By transfer of a person, who has been holding an equivalent post of Assistant Commissioner in any of the Charitable or Hindu Religious Institutions and Endowments Published under clause (a) of Section 6 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987 including a person in the service of the Tirumala Tirupathi Devasthanams.

Note: - (I) In the case of appointment to the post of Deputy Commissioners and Assistant Commissioners, the number of posts to be filled by direct recruitment shall not fall short of 30% of cadre strength of each category.

(II) The posts of Assistant Commissioners shall be filled from the three cadre of categories viz., Superintendents of Endowments Executive Officer Grade-I and employees of Charitable or religious Institutions or Endowments published under Clause (a) of Section 6 of the Act including a person in the service of Tirumala Tirupathi Devasthanams, who has been holding an equivalent post of Assistant Commissioner in the ratio of 3:3:1 in the following rotation:

- (i) First Vacancy : Superintendent, Office of the Commissioner, Endowments Department, Hyderabad.
- (ii) Second Vacancy: Executive Officer Grade-I.
- (ii) Third Vacancy : Superintendent of Endowments Department other than the Office of Commissioner of Endowments Department, Hyderabad.
- (iv) Forth Vacancy : Executive Officer Grade –I
- (v) Fifth Vacancy : A person who has been holding an equivalent post of Assistant Commissioner in any of the Charitable and Hindu Religious Institutions and Endowments published under clause (a) of section 6 of the AP Charitable and Hindu Religious Institutions and Endowments published under Clause (a) of section 6 of the AP. Charitable and Hindu Religious Institutions and Endowments Act, 1987 including a person from the Service of the Tirumala Tirupathi Devasthanams.
- (vi) Sixth Vacancy : Superintendent of Endowments Department other the office o f the Commissioner of Endowments Department.
- (vii) Seventh Vacancy: Executive Officer Grade-I.

Note (3) : If no qualified candidates are available for appointment from particular category, the vacancy shall be filled by a qualified Candidate by rotation in the same cycle.

In his impugned order dated 7-7-2008 the Commissioner, Endowments Department has shown at Sl.No.46 i.e. 3rd vacancy in the 7th Cycle of Vacancies was assigned to Smt. T.P. Tarabayamma Superintendent working in Head Office, though there is a qualified and eligible Office Superintendent is available from Muffsil Office. The inclusion of Smt. T.P. Tarabayamma is not only violative of the Principles laid down by Supreme Court of India referred to in proceedings paras but also contrary to the Note III under Rule 3 of the Special Rules. It is an admitted fact that the appellant is fully qualified and eligible for appointment by transfer from category of Superintendent working in Muffsil Office of Multi Zone-I as he is the senior most.

In view of the above, the Review Petition filed by Sri Ch. Mallikharjuna Banu is allowed and assign him a place at Sl.No.46 of the Seniority list of Assistant Commissioner of Endowments communicated by the Commissioner, Endowments Department in his Rc.No.E1/10663/2008-1, Dt. 7-7-2008 and to assign him notional date of appointment as Assistant Commissioner of Endowments with effect from 14-11-2002 i.e. the date on which Smt. T.P. Tarabayamma was appointed as Assistant Commissioner of Endowments.

The Commissioner, Endowments Department, Hyderabad shall take further necessary action accordingly in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K.V. RAMANA CHARY,
PRINCIPAL SECRETARY TO GOVERNMENT.

To
The Commissioner, Endowments Department, Hyderabad. .
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SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER